

## **Board Administration and Regulatory Coordination Unit**

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### **Division 3. Air Resources Board**

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### **Chapter 1. Air Resources Board**

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### **Subchapter 1.25. Administrative Procedures–Hearings**

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### **Article 6. Definition of Minor Violation and Guidelines for Issuance of Notice to Comply**

#### **§ 60091. Definitions.**

For the purposes of sections 60090 through 60094, the following definitions shall apply:

(a) “Chronic violation” means a violation where there is evidence indicating a pattern of neglect or disregard in complying with air pollution control requirements. A pattern of neglect or disregard can be established by more than one reasonably contemporaneous violation of the same or similar nature at the same facility or by the same operator.

(b) “Executive Officer” means the Executive Officer of the California Air Resources Board or his or her delegate pursuant to section 39516 of the Health and Safety Code.

(c) “Information” means data, records, photographs, analyses, plans, or specifications which will disclose the nature, extent, quantity, or degree of air contaminants which are, or may be, discharged by a source.

(d) “Minor Violation” means:

(1) The failure of a person to comply with any requirement or condition of any applicable rule, regulation, information request, order, variance, or other requirement, whether procedural or substantive, adopted by the Air Resources Board pursuant to Division 26 of the Health and Safety Code, sections 43830 et seq., 41962, and 41712, where the noncompliance meets all of the following criteria:

(A) does not result in or contribute to, or have the effect of covering or concealing, an increase in emissions of any air contaminant by more than a de minimis amount; and,

(B) does not endanger the health, safety, or welfare of any person(s); and

(C) does not endanger the environment; and

(D) does not cause an increase in emissions of any toxic air contaminant in excess of any emission standard, limitation, or other state or federal requirement that is applicable to that toxic air contaminant; and

(E) does not cause or contribute to the violation of any state or national ambient air quality standard; and

(F) does not hinder the ability of the Executive Officer to determine compliance with any other applicable local, state or federal rule, regulation, information request, order, variance, permit, or other requirement.

(2) Notwithstanding the above, no violation shall be considered a minor violation if:

(A) the violation is knowing, willful, or intentional; or

(B) the violation enables the violator to benefit economically from noncompliance, either by realizing reduced costs or by gaining a competitive advantage; or

(C) the violation is chronic; or

(D) the violation is committed by a recalcitrant violator.

(e) “Notice to Comply” means a written method of alleging a minor violation that:

(1) is written in the course of conducting an inspection by the Executive Officer.

(2) is presented to a person who is owner, operator, employee, or representative of the facility being inspected at the time the Notice to Comply is issued.

(3) clearly states the following:

(A) the nature of the alleged minor violation; and

(B) a means by which compliance with the requirement cited may be achieved; and

(C) a time limit, not to exceed thirty (30) days, by which date compliance must be achieved; and

(D) that the inspected facility may be subject to reinspection at any time.

(f) “Procedural Requirement” means a requirement of a rule or regulation that establishes a manner, method, or course of action but does not specify, limit, or otherwise address direct air contaminant emissions.

(g) “Recalcitrant violator” means a person who, based upon the evidence, has engaged in a pattern of neglect or disregard with respect to the violation of applicable rules, regulations, information requests, orders, permits, or other requirements.

NOTE: Authority cited: Sections 39600, 39601 and 39150(c), Health and Safety Code. Reference: Sections 39150-39153, Health and Safety Code.

#### **REFERENCE**